

REMARKS

Currently, claims 1-28 are pending. The Examiner has restricted the claims in the case to two (2) groups, broken down as follows:

1. Group I, claims 1-13, with claims 1-7 drawn to a pharmaceutical composition comprising a nitrate and a biological equivalent of L-arginine and claims 8-13 drawn to a pharmaceutical composition comprising a nitrate and citrulline; and

2. Group II, claims 14-21, with claims 14-21 drawn to a method of treating a subject in need thereof comprising administering a pharmaceutical composition comprising a nitrate and a biological equivalent of L-arginine and claims 22-28 drawn to a method of treating a subject in need thereof comprising administering a pharmaceutical composition comprising a nitrate and citrulline.

Initially, Applicant respectfully submits that Group II should include claims 14-28 (not 14-21), and for purposes of the present response, Applicant has treated Group II as including claims 14-28.

Applicant respectfully traverses the Restriction Requirement and requests reconsideration. In order to be fully responsive, Applicant has provisionally elected, with traverse, Group I as defined by claims 1-13 directed to pharmaceutical composition comprising a nitrate and citrulline or a biological equivalent of L-arginine. Further, as requested by the Examiner, Applicant elects a pharmaceutical composition comprising citrulline and a nitrate pursuant to the species election. The claims encompassed by the foregoing election include claims 8-13.

It is respectfully submitted that the search classification for each invention group will substantially overlap. Each of the claims, as presently recited, require a pharmaceutical composition containing a nitrate and a biological equivalent of L-arginine. The specification teaches that citrulline is a biological equivalent of L-arginine (see page 4, lines 13-16). The Examiner will not be seriously burdened by searching and considering the inventions as described in all the currently pending claims. Accordingly, the Examiner has not established a proper restriction requirement under MPEP§ 803.

PATENT APPLICATION

Application No. 10/763,358

Attorney Docket No. 126625.00901

By this election, Applicant does not admit, nor does Applicant waive the right to argue against at a later date, the Examiner's statement that the groups are patentably distinct. Applicants expressly reserve the right to present the claims of Group II, or other claims, in one or more divisional, continuation, or continuation-in-part applications at a later date.

CONCLUSION

It is believed that pending claims 1-13 are in condition for final allowance and notice to such effect is respectfully requested. Although the Applicant believes no additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0436 for any fees that may be due in connection with this response.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, he is invited to contact the undersigned at his convenience.

Respectfully Submitted,

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